

TITLE 4: BUSINESS AND SPECIAL LICENSES, REGULATIONS

DIVISION 2: SPECIAL LICENSES AND REGULATIONS

Chapter 3: DISTRESS SALES.

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42.031 License Required.

It shall be unlawful for any person, without first obtaining from the Sheriff of San Bernardino County, a license to be designated as a "Distress Sale License," to advertise or conduct any sale of goods at retail, which sale is represented, by said person or any agent of his,

- (a) as a sale of goods damaged by fire, water, or other casualty; or
- (b) as a sale for liquidation or closing out of a business or moving of the place of business; or
- (c) as a sale of assets of the estate of a bankrupt, insolvent, or deceased person, or, in the hands of an assignee, adjuster, trustee, executor, administrator, guardian, receiver, or other fiduciary, unless the person conducting such sale possesses a valid appointment by a court of competent jurisdiction appointing said person to a position entitling said person, either by its terms or by operation of law, to conduct such sale of the assets actually sold and offered for sale; or
- (d) as a sale of jobbers, manufacturers, or wholesalers; or
- (e) as a sale of salvaged goods; or
- (f) as any other sale which is by representation or advertisement intended to lead, or does actually reasonably lead, or has a reasonable tendency to lead the public to believe that the person conducting such sale is selling out the goods for less than the current or going retail price thereof in the County of San Bernardino, by reason of damage, economic or legal distress, or similar temporary circumstances.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.032 Sales Designation.

All such sales shall be known as distress sales.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.033 Application -- Content; Verification.

Said "Distress Sales License" shall be issued only upon application including or accompanied by the following requirements:

- (a) The name and residence address of the person to whom the license is to be issued, hereinafter designated as the applicant, and the name and residence address of the legal owner of the stock to be sold;
- (b) Request for issuance of a "Distress Sale License," and a designation of the proper subsection or subsection of Section 42.031 of this chapter which apply to the proposed sale;
- (c) An inventory of the stock on hand in triplicate;
- (d) A complete list, and proof of the correctness thereof, of all goods not yet on hand which will or may be offered at the proposed distress sale, and proof that the same already belong to applicant, or have previously been ordered, or that applicant is legally bonded to purchase (or dispose of) the same;
- (e) The business address or addresses at which the proposed distress sale is to occur;
- (f) The business name under which the proposed distress sale is to occur;
- (g) The length of time that the applicant has conducted the business or used the business name under which the proposed distress sale will occur, and the same as applied to the present address;
- (h) Whether the stock on hand or to come was ordered for the purpose of the proposed distress sale;
- (i) The proposed beginning and ending date of the proposed distress sale;
- (j) The location of the records of such proposed distress sale;
- (k) Any other information which applicant wishes to offer;

(l) A certificate under penalty of perjury or an affidavit attesting to the correctness of the preceding information, inventory, and list.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.034 Reasons for Denial of License.

The said license shall not be issued if:

(a) The business has not been in existence at the address for more than six months last past, in cases where the proposed distress sale falls under categories (b) or (f) as described in Section 42.031;

(b) The stock or any portion thereof proposed to be sold was acquired or contracted for, for the purpose of the proposed distress sale, if the same falls under categories (b) or (f), as described in Section 42.031;

(c) Applicant fails to declare under penalty of perjury that goods proposed to be sold under categories (a), (c), (d), or (e) of Section 42.031 are actually or the description therein designated, such as damaged under subdivision (a), sold under circumstances described in subdivision (c), or by persons described in subdivision (d), or salvaged under subdivision (e);

(d) Applicant has conducted any distress sale during the previous six months, whether of the same or a different category, and whether under the same or a different business or firm name, and whether alone, or in partnership with the same or different persons; and if any person shall be the owner of the majority of stock in a corporation applying or which has applied for or been granted any sort or distress sale license, said owner shall be deemed the applicant for purposes of this Section, subdivision (d), (e), or (f);

(e) Applicant has obtained a previous distress sale license when not actually entitled thereto, or has obtained such a license and has exceeded the terms thereof, or has conducted a distress sale without proper required license; or

(f) Applicant or legal owner has been convicted of grand theft or fraud in the State of California, or of any crime in another state which would be grand theft or fraud if committed in the State of California.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.035 Fee and Duration of License.

The fee for such license shall be thirty-seven dollars (\$37); if an extension is granted under Section 42.036, the fee shall be fifty-five dollars (\$55) for each thirty-day period or portion thereof for which extension is so granted.

The said license shall permit the distress sale of the type therein designated for a period of thirty (30) days, which period shall be designated by beginning and ending date in the license; and if the license shall fail to specify the year, it shall apply only to the first month and day as described following the date on which the license is issued.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.036 Extended Duration of License in Special Hardship Cases.

In cases of special hardship, as determined by the County Sheriff, extensions may be granted allowing the permit to remain in affect for additional time, not to exceed a total of ninety (90) days from the proposed beginning date of the sale as described in the original permit.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.037 Additional Information Requirement.

The application for any permit herein mentioned may require such additional information as will enable the issuing authority to determine any facts needed by it as foundation for any action it is herein authorized expressly or by implication to take.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.038 Verifications of Applicant.

Wherever herein the applicant is required to give his oath or declaration under penalty of perjury, this may be done by an agent if the applicant is a corporation. Any body politic shall be excluded from these provisions.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.039 Verified Inventory.

The inventory required by the preceding Section 42.033 shall contain a complete and accurate list of the stock of goods, wares and merchandise to be sold at such sale for which a license is hereby required, together with the wholesale price thereof, which inventory or list shall be signed by the person seeking the license or by a resident

agent thereto authorized and by affidavit at the foot thereof he or such agent shall swear or affirm that the information therein given is full and true and known by him or such agent to be so.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.0310 Compliance with Terms of Permit.

It shall be unlawful for any person to do any of the acts set forth in Section 42.031, although such person has a valid current Distress Sale License, unless such distress sale is conducted in strict and exact conformance to the description and terms of the said sale, as described in the application for said license, except that, where the terms of the permit differ from the terms of the application therefor, it shall be unlawful to conduct such distress sale contrary to any term of the license.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.0311 Violation.

It shall be unlawful to sell, offer or expose for sale at any such sale, or to list on such inventory, any goods, wares or merchandise which are not the regular stock of the store or other place, the business of which is to be closed out by such sale, or to make any replenishment or additions to such stock for the purpose of such sale, except those items listed as provided in Section 42.033, subdivision (d), or during the time thereof, or to fail, neglect or refuse to keep accurate records of the articles or things sold, from which records the license-issuing authority may ascertain the kind and quantity of goods sold, and it shall be unlawful to fail to make and keep all records of the distress sale available for inspection at any reasonable business hour by a representative of the San Bernardino County Sheriff's office.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);

42.0312 Enforcement.

The Sheriff is the officer empowered with the authority and charged with the duty of issuing licenses under this chapter and enforcing the provisions thereof.

Adopted Ordinance #927 (1960); Amended Ordinance #1522 (1969);